STATE OF IOWA BEFORE THE BOARD OF COSMETOLOGY ARTS & SCIENCES EXAMINERS

ÎN THE MATTER OF:	
Clinic of Electrology License No. 002-001632 (Cedar Rapids) License No. 002-010899 (Iowa City)) Case No. 04-075))
and))
Rebeka Berstler License Nos. 843-44870 (Cosmetology) 845-44870 (Electrology)	COMBINED STATEMENT OF CHARGES, INFORMAL SETTLEMENT AGREEMENT, AND CONSENT ORDER
RESPONDENTS))

The Iowa Board of Cosmetology Arts and Sciences Examiners (Board) and Clinic of Electrology, through its owner Rebeka Berstler and Rebeka Berstler, personally, (Respondents), enter into this Combined Statement of Charges, Informal Settlement Agreement, and Consent Order (Agreement) pursuant to Iowa Code sections 17A.10(2), 272C.3(4), and chapter 645 Iowa Administrative Code (IAC) rule 12.1.

- 1. Respondents possess license numbers 002-001632 and 002-010899 to operate salons in the state of Iowa. Board records indicate that Respondent salons are owned by Rebeka Berstler and are located at 3840 1st Ave. NE, Cedar Rapids, Iowa 52402 and 2732 Northgate Dr., Iowa City, Iowa 52240. She also held a salon license number 002-A00392 for a salon at 369 E. College St, Iowa City, Iowa 52240. Rebeka Berstler personally holds license numbers 843-44870 (Cosmetology) and 845-44870 (Electrology).
- 2. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 157, and 272C. Licenses issued by the Board are subject to the laws of the State

of Iowa and the administrative rules promulgated by the Board.

STATEMENT OF CHARGES

COUNT I

3. Respondent Rebeka Berstler is charged with practicing cosmetology arts and sciences with a lapsed license in violation of Iowa Code sections 147.2, 147.10 and 645 IA.C. rule 65.2(26).

CIRCUMSTANCES

4. Rebeka Berstler's Cosmetology and Electrology licenses lapsed on April 1, 2002. She did not reinstate the licenses until May of 2005. She represented herself as licensed to practice while her licenses were lapsed.

COUNT II

5. Respondents are charged with employing three individuals to practice cosmetology arts and sciences without a license or with lapsed licenses in violation of lowa Code sections 147.2 and 157.13(1) and 645 IAC rules 63.4(1) and 65.2(23), (26), (28) and in failing to report to the department the name of an unlicensed person practicing without a license in violation of lowa Code section 147.89 and 645 IAC rule 65.2(31).

CIRCUMSTANCES

6. Respondents' salons had in its employ two persons performing services requiring licenses but whose licenses have lapsed. The two persons were Rebeka Berstler, lapsed license numbers 843, 845-44870, and Wilma J. Moeller Varner, lapsed

license numbers 843, 845-17155. Rebeka Berstler has represented herself as licensed when her license has lapsed. The salon licensee failed to report this unlicensed

practice.

7. Respondent salon has also employed an unlicensed person, Rebeka Berstler's son, Marshall Okken, to do services requiring a license. The respondents have also failed to report this unlicensed practice.

COUNT III

8. Respondent, Rebecca Berstler, is charged with operating a salon without a license in violation of Iowa Code section 157.11 and 645 IAC 61.2(1), (3), and (5).

CIRCUMSTANCES

9. Respondent's salon license number 002-001632 is for a specific location in Cedar Rapids, Iowa. Respondent, Rebeka Berstler, was also operating at a site requiring a salon license at 2732 Northgate Drive, Iowa City, Iowa 52240 prior to obtaining a license for a salon at that location.

SETTLEMENT AGREEMENT

- 10. Respondents agree not to contest the above stated charge before the Board.
- 11. Respondents have a right to receive notice of the charge and to request a hearing before the Board on the merits of the charge, but waives its right to notice and a hearing and all attendant rights, including the right to appeal or seek judicial review of the Board's actions, by freely and voluntarily entering into this Agreement. This Agreement shall constitute the final order of the Board in this case.
- 12. Respondents agree that the State's counsel may present this Agreement to the Board and may have ex parte communications with the Board while presenting it.
- 13. This Agreement shall be part of the permanent record of Respondents and shall be considered by the Board in determining the nature and severity of any

disciplinary action to be imposed in the event of future violations.

- 14. Any failure by Respondents to comply with the terms and conditions of this Agreement shall subject Respondents to further license disciplinary action which could be initiated by the Board through the filing of a statement of charges with a hearing to be held on the merits.
 - 15. This Agreement is subject to approval by the Board:
 - (a) If the Board does not approve this Agreement, it shall be of no force or effect on either party and it shall not be admissible for any purpose in further proceedings in this matter.
 - (b) If the Board approves this Agreement, it shall fully dispose of all issues in this case.
- 16. This Agreement is a public record pursuant to Iowa Code sections 272C.3(4) and 272C.6(4)(2005).
- 17. This Agreement shall not be binding as to any new complaints received by the Board.

CONSENT ORDER

IT IS THEREFORE ORDERED:

- 18. Respondent's Cedar Rapids and Iowa City salon licenses shall be placed on probation for a period of one (1) year.
- During the probationary period, Respondents shall comply with the following terms.
 - (a) Respondents shall comply with all relevant statutes and administrative rules in the course of its operations as a salon where cosmetology arts and services are performed.
 - (b) Respondent shall file quarterly reports with the Board listing the salons' employees and any other persons allowed to provide personal services to customers on the salons' premises, whether

licensed by the State of Iowa to provide cosmetology arts and science services or not, and type of services performed by each employee or person on the salon premises. The quarterly reports shall be typewritten and shall attest to the following information, at a minimum, for each and every person who performed personal services within the Respondent salon during the three months immediately preceding the report.

- the name of the persons who perform services;
- ii) the license number, expiration date and license type for each person providing services;
- iii) the type of services performed by each person:
- iv) each person's date of hire or first performance of services;
- v) each person's date of termination, if applicable, or last date of performance of services.

The failure of Respondent salon to provide complete and truthful information in the quarterly employee reports shall constitute a violation of this Agreement. The Board or its designee may verify the information provided in the quarterly reports through an examination of Board records by interviewing persons listed, or by conducting unannounced inspections of the Respondents' salons.

- (c) The one year probation will encompass the period of four quarterly reports. The reports can begin for a period no earlier than July September 2005. If they begin with the July September 2005 quarter the probation will end with the filing of the May June 2006 report.
- d) Upon request of the Board, Rebeka Berstler shall appear before the Board to report on the status of Respondent's salon operations and to answer any questions or concerns the Board may have regarding Respondent's compliance with this Agreement. The Board shall provide her with reasonable notice of the date, time, and place of any requested appearance. She agrees that any such appearance would be governed by 645 Iowa Administrative Code rule 9.7 and that she waives any and all objections to the

members of the Board both participating in the appearance and later participating as decision makers in a contested case proceeding.

- 20. Respondent, Rebeka Berstler, agrees to pay to the Board a civil monetary penalty of \$500 for the violation listed in Count I, Respondents agree to pay the Board \$1000 for the violations listed in Counts II and III. Respondents shall remit full payment of the civil monetary penalty totaling \$1500 to the Board within 30 days of the date this Agreement is executed by the Board.
- 21. Upon full compliance with the above terms and conditions, Respondent's licenses to operate salons in the state of lowa shall be restored to its full privileges free and clear of all probationary restrictions imposed as the result of the charges listed herein.

WHEREFORE, the terms of this Statement of Charges, Informal Settlement Agreement, and Consent Order are agreed to and accepted by the Iowa Board of Cosmetology Arts and Sciences and Respondents.

This combined statement of charges, informal settlement agreement, and consent order are approved by the Board on February 1, 2006.